

REMARKS

Applicant's counsel thanks the Examiner for the careful consideration given the application and also for the courteous telephone interview conducted on October 5, 2007. During the telephone interview the independent claims and the applied references were discussed. With reference to claim 1, the Office action took the position that element 62 of US 6854224 constituted the first foam layer. However, at column 3, line 63, the '224 reference states that "For example, an anti-friction wear pad, such as a wear strip 62 can be placed between backer 44 and base plate 50. Wear strip 62 can be made of UHMW (ultra high molecular weight polyethylene) or some other low friction, wear resistant material that is distinguishable from the material of backer 44 and/or base plate 50". Accordingly, it can be seen that element 62 is not a foam layer as defined in claim 1, but is rather a UHMW wear strip. As applicant's counsel pointed out to the Examiner during the telephone interview, a UHMW polyethylene wear strip is not a foam material but is rather a solid material; applicant's counsel cited US 6932512 which describes a UHMW polyethylene wear insert located between a cast iron or welded steel bearing block and a rockshaft. In the '512 reference, at column 3 lines 5 and 42, it is stated that the insert structure 80 is preferably fabricated from UHMW polyethylene and is a wear strip or wear insert to prevent metal-to-metal contact between the rockshaft and the bearing block structure 60. A wear strip is solid and non-foam to provide durability and longer life; if it was foam, it would wear out much more quickly. Accordingly, the UHMW polyethylene wear strip 62 of '224 is clearly not a foam layer. Accordingly, the first foam layer limitation of claim 1 defines over the wear strip 62 of the '224 patent. Applicant's counsel also pointed out in the telephone interview that claim 43 is patentable for the same reasons as claim 1, that is, because claim 43 also includes the first foam layer limitation. Since claims 1 and 43 include the first foam layer limitation, and because the applied reference has a UHMW polyethylene wear strip 62, which is a solid material and not a foam layer, it is clear that claims 1 and 43 define over the reference and are patentable and accordingly should be allowed.

Claim 19 previously included the limitation that the theft deterrence component was at least partially made of metal and it was rejected based upon the flap or plate 14 of US 3230675. Claim 19 has been amended to include the limitation that the theft deterrence component is a metal structure. This limitation now more clearly defines over the '675 patent. As pointed out during the interview, a flap or plate 14 of the '675 patent is clearly not a metal structure. At '675 column 2, line 39 it states "The front panel 12 has stitched or otherwise secured thereon a vertical row of overlapping, flexible, wear-resistant flaps or plates 14 which provide excellent protection against abrasion and tearing of the pad structures 6,7. These flaps or plates 14 are attached only along their upper edges to the fabric panel 12, as by stitching 16, and they should overlap to provide the best protective quality. They may be also considered to be a row of overlapping flaps


of flexible, wear-resistant material which bear the brunt of wear and tear occurring when the truck is loaded or unloaded or is backed against or driven away from the pads 6,7." Further down, at column 2 line 58, it states that "When the rear ends of the sides of a truck press against the pad structures 6,7, projections or sharp corners embedded in the pad structures may snag the fabric of panel 12 (assuming the pads or plates 14 to be absent) or abrasively wear the fabric by the up and down motion of the rear end of the truck. Because, however, the flaps or plates 14 of flexible material are attached only at their upper edges to the panel 12, each pad, flap or plate 14 is free to move up and down individually of the other flaps. Because they are flexible, and their sides and bottom are unattached, they can flex or fold enough to move up or down with an abutting part of the rear of the truck." From this discussion, it is clear that the flap or plate 14 is not a metal structure, because a metal structure cannot be attached to a fabric panel by stitching, because stitching will not go through a metal plate, and also because metal is not flexible as described therein. If plate 14 was metal, then when the truck backed up against the dock pad, plate 14 would be crushed, bent or otherwise permanently deformed and thus rendered useless for further duty; it would bend into the foam and thereafter not be functional. Accordingly, plate 14 is clearly not a metal plate, since a metal plate would not flex back when crushed by a truck. Since pad or plate 14 is flexible and stitchable, it clearly cannot be a metal plate and accordingly it does not meet the claim limitation that the theft deterrence component is a metal structure. Accordingly, the '675 patent does not teach the metal structure of claim 19 and accordingly claim 19 now defines over the applied references and is accordingly in condition for allowance.

Claim 22 was rejected based upon Fig. 6 of US 6272799, which shows short leg 60 and short leg 58/62. However, as shown in Fig. 6 of '799, leg 58/62 and leg 60 extend the same distance from mounting surface 16. Claim 22 has now been amended to clearly define over the '799 patent since claim 22 as now presented contains the following limitation: "said first short leg having a first point which is said first short leg's most distant point from said mounting surface, said second short leg having a second point which is said second short leg's most distant point from said mounting surface, said first point being substantially more distant from said mounting surface than said second point when the distances are measured in a direction substantially perpendicular to said mounting surface." As can be seen, claim 22 requires that the two short legs have substantially different lengths, when the lengths are measured in a direction substantially perpendicular to the mounting surface. Clearly Fig. 6 of '799 does not teach this limitation and accordingly claim 22 as now presented clearly defines over the prior art and accordingly is in condition for allowance.

The foregoing summarizes the discussion during the telephone interview. Since each of the independent claims is now allowable for the reasons described above, they should now be held patentable. All the remaining claims are dependent claims and accordingly are allowable as depending from an allowable base claim.

For all the foregoing reasons, the application is now clearly in condition for allowance, which is respectfully requested. If there are any further fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. CLF-36289US1.

Respectfully submitted,
PEARNE & GORDON LLP

By: 
John P. Murtaugh, Reg. No. 34226

1801 East 9th Street
Suite 1200
Cleveland, Ohio 44114-3108
(216) 579-1700

Date: Oct. 9, 2007